

CENTER FOR DISABILITY ACCESS  
Amanda Seabock, Esq., SBN 289900  
Prathima Price, Esq., SBN 321378  
Dennis Price, Esq., SBN 279082  
Mail: 8033 Linda Vista Road, Suite 200  
San Diego, CA 92111  
(858) 375-7385; (888) 422-5191 fax  
[amandas@potterhandy.com](mailto:amandas@potterhandy.com)

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson**

Plaintiff,

v.

**CLC Investments, LP**, a California  
Limited Partnership;  
**San Mateo Electronics, Inc.**, a  
California Corporation;

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: Americans With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of CLC Investments, LP, a California Limited Partnership; San Mateo Electronics, Inc., a California Corporation; and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially equipped van.

2. Defendant CLC Investments, LP owned the real property located at or

1 about 16 42nd Ave, San Mateo, California, in July 2021.

2 3. Defendant CLC Investments, LP owns the real property located at or  
3 about 16 42nd Ave, San Mateo, California, currently.

4 4. Defendant San Mateo Electronics, Inc. owned San Mateo Electronics  
5 Supply located at or about 16 42nd Ave, San Mateo, California, in July 2021.

6 5. Defendant San Mateo Electronics, Inc. owns San Mateo Electronics  
7 Supply ("Store") located at or about 16 42nd Ave, San Mateo, California,  
8 currently.

9 6. Plaintiff does not know the true names of Defendants, their business  
10 capacities, their ownership connection to the property and business, or their  
11 relative responsibilities in causing the access violations herein complained of,  
12 and alleges a joint venture and common enterprise by all such Defendants.  
13 Plaintiff is informed and believes that each of the Defendants herein is  
14 responsible in some capacity for the events herein alleged, or is a necessary  
15 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
16 the true names, capacities, connections, and responsibilities of the Defendants  
17 are ascertained.

18  
19 **JURISDICTION & VENUE:**

20 7. The Court has subject matter jurisdiction over the action pursuant to 28  
21 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
22 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

23 8. Pursuant to supplemental jurisdiction, an attendant and related cause  
24 of action, arising from the same nucleus of operative facts and arising out of  
25 the same transactions, is also brought under California's Unruh Civil Rights  
26 Act, which act expressly incorporates the Americans with Disabilities Act.

27 9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
28 founded on the fact that the real property which is the subject of this action is

1 located in this district and that Plaintiff's cause of action arose in this district.

2  
3 **FACTUAL ALLEGATIONS:**

4 10. Plaintiff went to the Store in July 2021 (twice) with the intention to avail  
5 himself of its goods or services motivated in part to determine if the  
6 defendants comply with the disability access laws.

7 11. The Store is a facility open to the public, a place of public  
8 accommodation, and a business establishment.

9 12. Unfortunately, on the dates of the plaintiff's visits, the defendants failed  
10 to provide wheelchair accessible paths of travel in conformance with the ADA  
11 Standards as it relates to wheelchair users like the plaintiff.

12 13. The Store provides paths of travel to its customers but fails to provide  
13 wheelchair accessible paths of travel.

14 14. A problem that plaintiff encountered is that the ramp that runs up to the  
15 entrance did not have a level landing.

16 15. Plaintiff believes that there are other features of paths of travel that  
17 likely fail to comply with the ADA Standards and seeks to have fully compliant  
18 paths of travel for wheelchair users.

19 16. On information and belief, the defendants currently fail to provide  
20 wheelchair accessible paths of travel.

21 17. Additionally on the dates of the plaintiff's visits, the defendants failed  
22 to provide wheelchair accessible sales counters in conformance with the ADA  
23 Standards as it relates to wheelchair users like the plaintiff.

24 18. The Store provides sales counters to its customers but fails to provide  
25 wheelchair accessible sales counters.

26 19. A problem that plaintiff encountered was that the sales counter was too  
27 high and there was no lowered portion of the sales counter suitable for  
28 wheelchair users. There was no section that was 36 inches in height or less.

1       20. Plaintiff believes that there are other features of sales counters that  
2 likely fail to comply with the ADA Standards and seeks to have fully compliant  
3 sales counters for wheelchair users.

4       21. On information and belief, the defendants currently fail to provide  
5 wheelchair accessible sales counters.

6       22. The failure to provide accessible facilities created difficulty and  
7 discomfort for the Plaintiff.

8       23. These barriers relate to and impact the plaintiff's disability. Plaintiff  
9 personally encountered these barriers.

10       24. As a wheelchair user, the plaintiff benefits from and is entitled to use  
11 wheelchair accessible facilities. By failing to provide accessible facilities, the  
12 defendants denied the plaintiff full and equal access.

13       25. The defendants have failed to maintain in working and useable  
14 conditions those features required to provide ready access to persons with  
15 disabilities.

16       26. The barriers identified above are easily removed without much  
17 difficulty or expense. They are the types of barriers identified by the  
18 Department of Justice as presumably readily achievable to remove and, in fact,  
19 these barriers are readily achievable to remove. Moreover, there are numerous  
20 alternative accommodations that could be made to provide a greater level of  
21 access if complete removal were not achievable.

22       27. Plaintiff will return to the Store to avail himself of its goods or services  
23 and to determine compliance with the disability access laws once it is  
24 represented to him that the Store and its facilities are accessible. Plaintiff is  
25 currently deterred from doing so because of his knowledge of the existing  
26 barriers and his uncertainty about the existence of yet other barriers on the  
27 site. If the barriers are not removed, the plaintiff will face unlawful and  
28 discriminatory barriers again.

28. Given the obvious and blatant nature of the barriers and violations alleged herein, the plaintiff alleges, on information and belief, that there are other violations and barriers on the site that relate to his disability. Plaintiff will amend the complaint, to provide proper notice regarding the scope of this lawsuit, once he conducts a site inspection. However, please be on notice that the plaintiff seeks to have all barriers related to his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site, he can sue to have all barriers that relate to his disability removed regardless of whether he personally encountered them).

**I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all Defendants.) (42 U.S.C. section 12101, et seq.)

29. Plaintiff re-pleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.

30. Under the ADA, it is an act of discrimination to fail to ensure that the privileges, advantages, accommodations, facilities, goods and services of any place of public accommodation is offered on a full and equal basis by anyone who owns, leases, or operates a place of public accommodation. See 42 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- a. A failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the accommodation would work a fundamental alteration of those services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- b. A failure to remove architectural barriers where such removal is

readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are defined by reference to the ADA Standards.

c. A failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities. 42 U.S.C. § 12183(a)(2).

31. When a business provides paths of travel, it must provide accessible paths of travel.

32. Here, accessible paths of travel have not been provided in conformance with the ADA Standards.

33. When a business provides sales counters, it must provide accessible sales counters.

34. Here, accessible sales counters have not been provided in conformance with the ADA Standards.

35. The Safe Harbor provisions of the 2010 Standards are not applicable here because the conditions challenged in this lawsuit do not comply with the 1991 Standards.

36. A public accommodation must maintain in operable working condition those features of its facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

37. Here, the failure to ensure that the accessible facilities were available and ready to be used by the plaintiff is a violation of the law.

## **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**

1 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
2 Code § 51-53.)

3 38. Plaintiff repleads and incorporates by reference, as if fully set forth  
4 again herein, the allegations contained in all prior paragraphs of this  
5 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
6 that persons with disabilities are entitled to full and equal accommodations,  
7 advantages, facilities, privileges, or services in all business establishment of  
8 every kind whatsoever within the jurisdiction of the State of California. Cal.  
9 Civ. Code §51(b).

10 39. The Unruh Act provides that a violation of the ADA is a violation of the  
11 Unruh Act. Cal. Civ. Code, § 51(f).

12 40. Defendants’ acts and omissions, as herein alleged, have violated the  
13 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s  
14 rights to full and equal use of the accommodations, advantages, facilities,  
15 privileges, or services offered.

16 41. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
17 discomfort or embarrassment for the plaintiff, the defendants are also each  
18 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
19 (c).)

20 42. Although the plaintiff encountered frustration and difficulty by facing  
21 discriminatory barriers, even manifesting itself with minor and fleeting  
22 physical symptoms, the plaintiff does not value this very modest physical  
23 personal injury greater than the amount of the statutory damages.

24  
25 **PRAYER:**

26 Wherefore, Plaintiff prays that this Court award damages and provide  
27 relief as follows:  
28

1 1. For injunctive relief, compelling Defendants to comply with the  
2 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
3 plaintiff is not invoking section 55 of the California Civil Code and is not  
4 seeking injunctive relief under the Disabled Persons Act at all.

5 2. For equitable nominal damages for violation of the ADA. See  
6 *Uzuegbunam v. Preczewski*, --- U.S. ---, 2021 WL 850106 (U.S. Mar. 8, 2021)  
7 and any other equitable relief the Court sees fit to grant.

8 3. Damages under the Unruh Civil Rights Act, which provides for actual  
9 damages and a statutory minimum of \$4,000 for each offense.

10 4. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
11 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

12  
13 Dated: September 23, 2021

CENTER FOR DISABILITY ACCESS

14  
15  
16 By: \_\_\_\_\_



17 Amanda Seabock, Esq.  
18 Attorney for plaintiff  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28